

THE SCHER LAW FIRM, LLP

ONE OLD COUNTRY ROAD, SUITE 385  
CARLE PLACE, NY 11514

MARTIN H. SCHER\*

JONATHAN L. SCHER\*\*

AUSTIN R. GRAFF\*

TEL: 516-746-5040

FAX: 516-746-5043

W. SCOTT KERSHAW  
COUNSEL

MICHAEL SCHILLINGER  
COUNSEL

ROLAND P. BRINT  
COUNSEL

ADAM GANG  
COUNSEL

ROBERT S. NAYBERG  
(1959-2012)

\* Also Admitted in District of Columbia

\*\* Also Admitted in New Jersey

December 10, 2021

**By ECF**

Honorable Kiyo A. Matsumoto, U.S.D.J.  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Garland, et al., v. New York City Fire Department, et al.  
Docket No. 21-CV-06586-KAM-CLP

Dear Judge Matsumoto:

This law firm represents all of the Plaintiffs, in the above-referenced Action.

In the Court's Electronic Order accompanying the Court's Memorandum and Order, the Court directed the Plaintiffs to show cause "why the claims of those Plaintiffs who have been restored to pay status should not be dismissed as moot." Electronic Order, December 6, 2021.

The Plaintiffs have two 42 U.S.C. § 1983 claims in this Action.

The Plaintiff's first claim is for procedural due process, requiring the Defendants to comply with the Plaintiffs' due process rights pursuant to N.Y.C. Administrative Code § 15-113 before terminating the Plaintiff's employment for not taking a COVID-19 vaccine. *See, ECF Docket No. 1*, at ¶¶ 103, 104, 106, 107, 108, and 109.

The Plaintiffs' second claim is for a violation of the Plaintiffs' property interest in their pay that cannot be taken away from them without due process. *See, ECF Docket No. 1*, at ¶¶ 102, 105, 106, 107, 108, and 109.

The fact that a number of Plaintiffs were restored to pay, but were, for a period of time, on an unpaid status and lost wages means that those Plaintiffs remain damaged and entitled to relief through this Action if the Court ultimately decides that the Plaintiffs should not have been placed on leave without pay, which would have been a violation of the Plaintiffs' constitutional rights.

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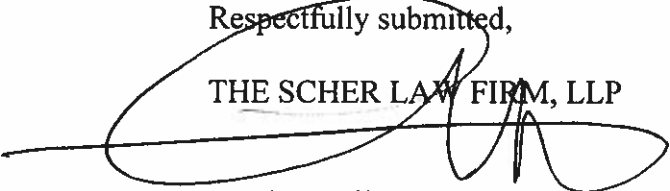
While those Plaintiffs who have been restored to pay status no longer have a claim that they should not be terminated without due process, they still have a claim for any unpaid back pay that they did not receive while on an unpaid leave status.

Accordingly, all Plaintiffs should remain as parties to this Action and none of them should be dismissed as moot.

Thank you for your courtesies in this matter.

Respectfully submitted,

THE SCHER LAW FIRM, LLP



Austin Graff

cc: Counsel of Record (by ECF)